

11/30/82

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EIN [REDACTED]
DO Cincinnati

Dear Applicant:

This is in reference to your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

The information you have provided indicates that you are a corporation that was organized under the laws of the State of [REDACTED] on [REDACTED]. Your stated purposes are charitable, educational, scientific, and literary purposes under section 501(c)(3) of the Code, specifically, to organize, establish, and conduct a private Christian school.

In furtherance of your purposes, you have established a full-time private Christian school for pre-school, primary, and secondary education to provide for the intellectual and spiritual Christian development of students. Your school is presently located in the home of [REDACTED], one of your incorporators, officers, and trustees. You state that your faculty initially includes one full and one part-time member and that you conduct a formal method of instruction.

Other information provided indicates that your student body for the current academic year and for the subsequent academic year is two children, both of whom are the children of [REDACTED] and [REDACTED], two of your incorporators, officers, and trustees. You state that you do not charge these students any tuition to attend your school, although you indicate that a tuition may be imposed as enrollment increases.

Finally, you indicate that you will be supported by a combination of personal contributions by your trustees and officers, private donations, and tuition payments, if any.

Section 501(c)(3) of the Code provides for the exemption of organizations that are organized and operated exclusively for charitable, educational, scientific, or literary purposes.

Section 1.5 (c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If the organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1) of the regulations states that an organization is not organized exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. It states that to meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, their creator or his family, shareholders of the organization, or persons controlled directly by such private interest.

Section 1.501(c)(3)-1(e)(1) of the regulations states that an organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3) of the Code.

Section 1.501(a)-1(c) of the regulations states that the term "private shareholder" or "individual" in section 501 refers to persons having a personal and private interest in the activities of the organization.

In Better Business Bureau v. U. S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Rev. Rul. 69-175, 1969-1 C.B. 149, holds that a nonprofit organization formed by parents of pupils attending a private school to provide bus transportation for its members' children serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3) of the Code.

From the information submitted, we cannot conclude that you are operated exclusively for exempt purposes, within the meaning of section 501(c)(3), rather than for the purpose of benefiting private interests. This conclusion is based on the fact that a substantial part, if not the total of your operations appear only to serve the private interests of certain of your incorporators, trustees and officers.

Specifically, your school is located in the home of [REDACTED], one of your incorporators, trustees, and officers, and the only students you have in the current and propose to have in the subsequent academic year are the children of [REDACTED] and [REDACTED] (another of your incorporators, trustees, and officers). In addition, you do not charge these students any tuition and most of your support is received from personal contributions of your officers and trustees and private donations. All of this indicates that you are primarily operated to serve the private interests of [REDACTED] and [REDACTED] rather than public purposes. In this regard, you are operated in a manner similar to that held non-exempt in Rev. Rul. 69-175.

Therefore, by engaging in activities which serve private rather than public interests, you are not operated exclusively for exempt purposes.

Accordingly, you do not qualify for recognition of exemption from federal income tax under section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code. You are required to file Federal income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 21 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If we do not hear from you within 21 days, this ruling will become final and copies of it will be forwarded to the District Director, Cincinnati, Ohio. Therefore, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

Sincerely yours,

(Signed) [REDACTED]

cc: DD, Cincinnati
[REDACTED]

cc: [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
Chief, Rulings Section
Exempt Organizations Technical Branch

REVENUE SERVICE
CINCINNATI, OHIO

MAR 13 1983

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EP/EO DIV.

RECEIVED

MAR 16 1983

DISTRICT DIRECTOR
INTERNAL REVENUE SERVICE
CINCINNATI, OHIO